

Appl. No. : **10/824,052**
Filed : **April 14, 2004**

AMENDMENTS TO THE DRAWINGS

A new drawing sheet is provided herewith and depicts in Figure 3A an embodiment of the implant described in the specification. The drawing sheet has been labeled "New Sheet."

Appl. No. : **10/824,052**
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REMARKS

By way of summary, Claim 1 was pending in this Application. The Office Action dated September 1, 2006, rejected Claim 1 as being anticipated under § 102(e) and objected to the drawings and portions of the specification. Applicants have amended the drawings, specification and claims as identified above and respectfully submit that the application is in condition for allowance as set forth below.

The Drawings

The Examiner objected to the drawings as failing to comply with 37 CFR 1.83(a) because the Examiner contends that multiple lumens are not shown in the drawings. Without prejudice or acquiescence and to expedite allowance of the application, Applicants submit herewith a new drawing sheet page showing new Figure 3A, which schematically depicts the implant of Figure 3, but with plural lumens having plural openings 3B. It is submitted that this drawing figure is fully supported by the specification (*see*, e.g. page 12, lines 15-17) and that no new matter has been added.

The Specification

As required by the Examiner, Applicants have amended the specification to update the priority claim and to correct the Abstract. Applicants have amended the priority claim a) to include the issued patent numbers of the parent applications, and b) to more accurately describe the relationship between the parent application and instant application, which is a continuation application of the parent application and not a continuation-in-part application. Applicants have also amended the abstract to remove certain legal phraseology as requested by the Examiner.

Applicants have added a new paragraph at page 8, line 27 to briefly describe new Figure 3A. Similarly, the specification at the paragraph beginning on page 10, line 15 has been amended to also briefly describe Figure 3A. No new matter has been added, as support for plural lumens may is provided, *inter alia*, at page 12, lines 15-17.

Applicants have amended the paragraph beginning on page 11, line 22 to provide the trademarked terms therein with all-capital letters as required by M.P.E.P. section 608.01(v).

Appl. No. : 10/824,052
Filed : April 14, 2004

In the Office Action dated September 1, 2006, the Examiner stated that certain reference numerals depicted in Figures 3 and 4 were not mentioned in the description. Applicants point out that reference numeral 3 in Figure 3 is mentioned at page 12, line 12, but to clarify the description of Figure 3, Applicants have amended an earlier paragraph beginning on page 10, line 15 to mention the inlet opening 3. Furthermore, Applicants have amended this paragraph to clarify the mention of the inlet section in this paragraph with the reference numeral “2” depicted in Figure 3, which is also mentioned elsewhere in the specification. In regards to the use of reference numerals 5A and 6A depicted in Figure 4, Applicants have amended the paragraph beginning on page 13, line 14 to state that the outlet section 9A may have a first outlet 6A and a second, opposite outlet end 5A. No new matter has been added, as support for the first outlet 6A and the second, opposite outlet end 5A is provided in Figure 4.

Applicants have also amended the paragraphs beginning on page 10, line 15 and page 10, line 28 to correct references to “middle section 4A” to “middle section 4”, as correctly shown in Figure 3. No new matter has added.

The Claims

Applicants have amended Claim 1 and added new dependent Claims 2-17. Support for the claim amendments and the new claims can be found, *inter alia*, in the figures and at the specification pages identified below:

Claim(s)	Support
1	Fig. 2, item 22
2-12	Fig. 9, element 72 Page 16, line 7-20
13	Fig. 8 Page 6, lines 14-15
14	Fig. 4 Page 13, lines 23-24

Appl. No. : 10/824,052
Filed : April 14, 2004

15	Page 12, lines 26-28
16	Page 14, lines 4-10
17	Fig. 3

102(e) Rejections

As mentioned above, Claim 1 was rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Nos. 5,533,768 to Hill, 6,699,211 to Savage, and 6,450,984 to Lynch. Applicants respectfully traverse these rejections, as explained below.

Priority to U.S. Patent Appl. Ser. No. 09/549,350, filed April 14, 2000

The subject matter of Claim 1 has an effective filing date of April 14, 2000. Support for this subject matter can be found, *inter alia*, at page 12, line 31 to page 13, line 1 of the grandparent application, Serial No. 09/549,350. For the Examiner's convenience, a copy of that application is being submitted with this Amendment as Appendix B.

Hill

Applicants respectfully note that the Hill patent has the same priority date as the present Application, namely April 14, 2000. Applicants further respectfully note that the specification provided in Hill is identical to the disclosure provided in the priority document of the present Application (see Appendix B). Applicants thus respectfully submit that Hill is not prior art under 102(e). The rejection of Claim 1 based on Hill therefore should be withdrawn.

Savage

The Office Action rejected Claim 1 as being anticipated by Savage. Applicants respectfully note that Savage claims an earliest priority date of August 22, 2000, and the present Application is entitled to a priority date of April 14, 2000. Accordingly, Applicants respectfully submits that Savage is not 102(e) prior art and the rejection of Claim 1 based on Savage should be withdrawn.

Appl. No. : 10/824,052
Filed : April 14, 2004

Lynch

The Examiner predicated the rejection of Claim 1 in part on the disclosure of multiple lumens illustrated in Figure 1E of the Lynch patent. This figure, however, is not found in Lynch's provisional filing. In view of such and in view of the fact that Applicants' priority date predates the filing date of the first Lynch application that included Figure 1E, Applicants respectfully submit that the Examiner has not established that Lynch constitutes 102(e) prior art to the subject matter recited by Claim 1.

CONCLUSION

In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. Applicants have made a good faith effort to respond to the outstanding Office Action. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is cordially invited to contact Applicants' attorney, at the telephone number below, to resolve any such issues promptly.


Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Additionally, Applicants respectfully traverse each of the Examiner's rejections of the claims, the objection to the drawings, and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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